

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LEEBER REALTY LLC and BERNARD COHEN,
both individually and in his capacity as Trustee of the
Bernard Cohen Revocable Trust,

No. 17-cv-2934(KMK)(LMS)

Plaintiffs,

ECF Case

-v-

TRUSTCO BANK,

**JUDGMENT IN
A CIVIL ACTION**

Defendant.

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This action was commenced by plaintiff Leeber Realty LLC on April 21, 2017 by the filing of a complaint and the issuance of a summons to defendant; defendant appeared and filed its answer to the complaint, which included two counterclaims, on June 1, 2017; plaintiff replied to the counterclaims on June 12, 2017; plaintiff filed an amended complaint on consent on October 6, 2017 which, among other things, added Bernard Cohen, both individually and in his capacity as Trustee of the Bernard Cohen Revocable Trust, as a party plaintiff; defendant filed its answer to the amended complaint, which included two counterclaims, on October 11, 2017; plaintiffs replied to the counterclaims on October 12, 2017; following the completion of discovery, on December 26, 2017, plaintiffs moved for summary judgment, which was opposed by defendant; by Opinion and Order, dated June 1, 2018, this Court: (i) granted plaintiffs' motion for summary judgment in part, finding defendant to be liable to plaintiffs, (ii) directed plaintiffs to file a supplemental submission with a revised calculation of damages, attorneys' fees, expense and costs in accordance with the June 4, 2018 Opinion and Order, and (iii) dismissed defendant's counterclaims; plaintiffs filed their supplemental

damages submission on June 13, 2018, which was opposed by defendant; thereafter, on July 18, 2018, defendant moved to vacate the June 1, 2018 Opinion and Order pursuant to Fed. R. Civ. P. 60(b), which was opposed by plaintiffs, and, by Opinion and Order, dated February 8, 2019, the Court denied defendant's motion and directed plaintiffs to submit another revised calculation damages, attorneys' fees and costs; and on February 20, 2019, plaintiffs submitted their revised calculation damages, attorneys' fees and costs with supporting evidence requesting that the Court award the following amounts to plaintiffs: (a) damages, inclusive of penalties and late fees through November 15, 2017, in the amount of \$635,557.95, (b) interest on damages for the period November 16, 2017 – through the date judgment is entered in the amount of \$131.41 per day; (c) legal fees and costs in the amount of \$249,079.23; (d) interest on legal fees and costs for the period December 27, 2017 – February 14, 2019 in the amount of \$15,896.28; (e) additional interest on legal fees and costs in the amount of \$54.60 per day from February 15, 2019 through the date judgment is entered.

NOW, THEREFORE, it is

ORDER, ADJUDGED AND DECREED, that plaintiffs Leeber Realty LLC and Bernard Cohen, each having an address at 6380 Commons Circle, # 202, West Palm Beach, FL 33417, shall have judgment against and shall recover from defendant Trustco Bank, a federal savings bank with its home office at 5 Sarnowski Drive Glenville, NY 12302, damages in the amount of \$ 635,557.95, plus interest on damages at the rate of 8% per annum in the amount of \$ 69,778.71, plus legal fees and costs in the amount of \$ 236,248.98, plus interest at the rate of 8% per annum on legal fees and costs in the amount of \$ 11,875.48; and plaintiffs shall recover post-judgment

interest on all damages, attorneys' fees and costs awarded by this Court from the date of this judgment at the rate of 8% per annum.

Date: May 1, 2019

SO ORDERED:



KENNETH M. KARAS, U.S.D.J.